IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1 OF 2007

1. Haji Dilawar Badshah Shaikh & Anr.] .. Petitioners

Versus

1. State of Maharashtra & Anr.] .. Respondents

Mr. Uday P. Warunjikar for the petitioners.

Mr. P.M. Patil, AGP, for the respondent No.1.

Mr. S.B. Deshmukh for the respondent No.2.

CORAM: S.B. MHASE, &
R.S. MOHITE, JJ.

DATED: 09TH APRIL, 2007

P.C. :

. Heard Mr. U.P. Warunjikar for the petitioners.

2. Mr. Warunjikar states that the mosque is located in City Survey No.970. The City Survey No.968 and 967 are the Government properties which are in the possession of the Gram Panchayat. In between both these survey numbers, there appears to be a road which can be used for approaching the mosque. In respect of the encroachment on this road, already Civil Suit has been filed by the Trustees of the said mosque. The petitioner is also one of the plaintiff in the said

Suit. Now, the petitioner has approached this Court making a grievance that construction in City Survey Nos.967 and 968 is being carried out by the Gram Panchayat without permission. In fact, when the property is in possession of the Gram Panchayat and the Gram Panchayat itself is carrying out construction, no permission is required to be taken because the permission granting authority is the same authority. If the Government is aggrieved by the said construction, it is for the Government to take appropriate action and, therefore, we do not find it appropriate to take any cognizance of the matter.

3. Another submission made by the learned counsel for the petitioners is that the Trust has demanded this land for the purposes of the mosque. Whether to grant this land for the mosque is the discretion of the Government and the Government is under an obligation to follow the Disposal Rules as and when the Government decided to dispose of the said land. We cannot direct that the land should be disposed of in favour of the mosque or any specified person, but the Government is under obligation to follow the Disposal Rules. If the Government decides to dispose of the land, the application of the petitioner will be considered on its own merit by following the Disposal Rules.

4. In view of all these circumstances, we do not find any substance in the Petition. We refrain to entertain the Petition. The Petition is rejected summarily.

Sd/-
[R.S. MOHITE, J.]

Sd/-
[S.B. MHASE, J.]